

OPEN MEETING ITEM



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COMMISSIONERS
MARC SPITZER - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: July 13, 2004
DOCKET NO: W-02074A-04-0241

TO ALL PARTIES:

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AZ CORP COMMISSION
DOCUMENT CONTROL

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

BEARDSLEY WATER COMPANY
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JULY 22, 2004

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

AUGUST 3 AND 4, 2004

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
BEARDSLEY WATER COMPANY TO EXTEND
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-02074A-04-0241

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: June 22, 2004

10 PLACE OF HEARING: Phoenix, Arizona

11 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

12 APPEARANCES: Sallquist & Drummond, P.C. by Richard L.
13 Sallquist, on behalf of Beardsley Water
14 Company; and
15 Jason Gellman, Staff Attorney, Legal Division,
on behalf of the Utilities Division of the Arizona
Corporation Commission.

16 **BY THE COMMISSION:**

17 On March 30, 2004, Beardsley Water Company ("Company" or "Applicant"), filed with the
18 Arizona Corporation Commission ("Commission") an application for an extension of its Certificate
19 of Convenience and Necessity ("Certificate") to provide public water utility service to various parts
20 of Maricopa County, Arizona.

21 On April 29, 2004, the Commission's Utilities Division ("Staff") issued a notice that the
22 application had met the sufficiency requirements of A.A.C. R14-2-411(C).

23 On April 30, 2004, by Procedural Order, a hearing was scheduled for June 22, 2004.

24 On May 28, 2004, the Company filed certification that it had provided notice of the
25 application and hearing in accordance with the Commission's Procedural Order.

26 On June 7, 2004, Staff filed its Staff Report which recommends conditional approval of the
27 Application.

28 On June 22, 2004, a full public hearing was convened before a duly authorized Administrative

1 Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and Staff appeared
2 with counsel. At the conclusion of the hearing, the matter was taken under advisement pending
3 submission of a Recommended Opinion and Order to the Commission.

4 * * * * *

5 Having considered the entire record herein and being fully advised in the premises, the
6 Commission finds, concludes, and orders that:

7 **FINDINGS OF FACT**

8 1. Pursuant to authority granted by the Commission in Decision No. 40034 (May 26,
9 1969), the Company is an Arizona corporation which is engaged in the business of providing water
10 service to approximately 214 customers northwest of Phoenix, Maricopa County, Arizona.

11 2. On March 30, 2004, the Company filed an application for an extension of its
12 Certificate in various parts of Maricopa County to provide service to an area which is marked Exhibit
13 A, attached hereto and incorporated herein by reference.

14 3. Notice of the application was provided in accordance with the law.

15 4. On June 7, 2004, Staff filed its Staff Report recommending conditional approval of the
16 application following a hearing.

17 5. The Company has been requested to provide water service to approximately 160 acres
18 of land owned by the developer of Patton Place Estates, L.L.C. ("LLC") of the Patton Place
19 subdivision, which is to be a residential development. Patton Place is contiguous to Applicant's
20 existing service area.

21 6. Applicant projects that future customer growth will result in approximately 134
22 residential connections in the subdivision area in the next five years.

23 7. To provide service to customers in the extension area, Applicant will utilize one (PWS
24 ID# 07-517) of its four existing public water systems with a production capacity of 160 gallons of
25 water per minute ("GPM") and 120,000 gallons of storage capacity. These facilities are currently
26 being used to serve 68 existing customers and are adequate to service almost all of the prospective
27 customers in the extension area described in Exhibit A. Additionally, the Company's other three
28 water systems produce more than 240 GPM and have 280,000 gallons of storage capacity.

1 8. To meet the needs of its expanding service area, Applicant is also planning the
2 addition of additional storage and production capacity when needed.

3 9. No other municipal or public service corporations provide water service in the
4 proposed service area described in Exhibit A.

5 10. The Company will provide Staff with a copy of the proposed main extension
6 agreement, a portion of which will be financed through a refundable advance from the developer of
7 Park Place.

8 11. The Company will file a copy of its expanded Maricopa County franchise which
9 includes the extension area described in Exhibit A when it is issued by the Maricopa County Board of
10 Supervisors.

11 12. The Company will provide service to the extension area at its existing rates and
12 charges on file with the Commission.

13 13. At the hearing, the Company placed in evidence a copy of its Curtailment Tariff for
14 Staff's approval.

15 14. Staff reviewed the water production and storage capacity of Applicant and believes
16 that the Company has or will have adequate facilities and the technical expertise to provide service in
17 the requested extension area.

18 15. According to the Staff Report, the Company is not in full compliance with the rules of
19 the Maricopa County Environmental Services Department ("MCESD"), but is providing water which
20 meets the requirements of the Safe Drinking Water Act and the MCL requirements. The Company's
21 water from its four wells does not exceed the new maximum standard for arsenic. However, MCESD
22 in its April 2004 Compliance Status Reports ("CSR") stated that all four of Applicant's systems had
23 minor monitoring and reporting deficiencies.¹

24 16. The Company is current on the payment of its property and sales taxes, and is in
25 compliance with its filing requirements with the Commission.

26 17. Staff believes that there is a public need and necessity for water service to the
27

28 ¹ During the hearing, the Company's witness indicated that the Company would late-file CSRs which would prove that Applicant is now in compliance with MCESD monitoring.

1 requested extension area and that the issuance of an extension to Applicant's Certificate is in the
2 public interest.

3 18. Staff is recommending that the Commission approve the Company's application
4 subject to the following conditions:

- 5 1. that the Company charge its existing rates and charges for the proposed
6 extension area;
- 7 2. that the Company file, within 365 days of the effective date of this
8 Decision, with the Director of the Commission's Utilities Division, a copy
9 of an executed main extension agreement;
- 10 3. that the Company file, within 365 days of the effective date of this
11 Decision, with the Director of the Utilities Division, a copy of the
12 developer's Certificate of Assured Water Supply for the proposed
13 extension area;
- 14 4. that the Company file, within 365 days of the effective date of this
15 Decision, with the Director of the Utilities Division, a copy of the
16 Maricopa County Franchise which includes the proposed extension area;
17 and
- 18 5. that the Company file, with the Director of the Utilities Division,
19 documentation demonstrating all monitoring and reporting has been
20 accomplished per the requirements of the MCESD prior to this Decision
21 becoming effective.²

22 19. Staff further recommends that the Commission's Decision granting the extension of
23 Applicant's certificated service area be considered null and void without further Order from the
24 Commission should the Company fail to timely file the documentation required by the second, third
25 and fourth conditions of Findings of Fact No. 18 above within the time specified.

26 20. Staff's recommendations in Findings of Fact Nos. 18 and 19 are reasonable with the
27 express understanding that all four of the Company's public water systems must achieve
28 "compliance" status with MCESD requirements before this Decision becomes effective.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the
Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

² On July 2, 2004, Applicant filed four CSRs, one indicated compliance and three indicated substantial compliance. The system to be used to provide service to Patton Place, PWS ID# 07-715, is in substantial compliance with minor deficiencies, but "needs to initiate lead and copper monitoring . . . four consecutive quarters of radiochemical monitoring . . . needs to report monthly total coliform properly."

4 4. There is a public need and necessity for water utility service in the proposed service
5 area described in Exhibit A.

6. The application to extend the Certificate for the area described in Exhibit A should be granted subject to the conditions set forth in Findings of Fact Nos. 18 and 19 above and the Company achieving “compliance” status with MCESD requirements for all four public water systems prior to this Decision becoming effective.

2 ORDER

IT IS FURTHER ORDERED that authorization for the extension of Beardsley Water Company's Certificate of Convenience and Necessity for the area described in Exhibit A shall be null and void without further Order by the Commission if Beardsley Water Company fails to timely comply with the second, third and fourth conditions as set forth in Findings of Fact No. 18 above.

27 | ...

28 | ...

1 IT IS FURTHER ORDERED that Beardsley Water Company's Curtailment Tariff presented
2 at the hearing is hereby approved.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
5
6

7 CHAIRMAN COMMISSIONER COMMISSIONER

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9 COMMISSIONER COMMISSIONER
10

11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
12 Secretary of the Arizona Corporation Commission, have
13 hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this ____ day of _____, 2004.

16 BRIAN C. McNEIL
17 EXECUTIVE SECRETARY

18 DISSENT _____

19 DISSENT _____

20 MES:mlj
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1 SERVICE LIST FOR: BEARDSLEY WATER COMPANY

2 DOCKET NO. W-02074A-04-0241

3 Fred T. Wilkinson
4 Beardsley Water Company
5 P.O. Box 1020
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7 Christopher Kempley, Chief Counsel
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10 1200 West Washington Street
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MARICOPA	20	T 5N	R 3W
COUNTY	SECTION	TOWNSHIP	RANGE

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